

REMARKS

For purposes of expediting the allowance of the foregoing patent application, applicants submit the present amendment along with a Request for Continued Examination under 37 CFR 1.114 of the subject patent application.

Claims 8, 9, 20, 21, 85-89, 92, 101-105 and 108 are pending in the present application.

Double Patenting Rejection

Claims 8, 16, 20, 93-97 and 100 stand provisionally rejected under the doctrine of non-statutory obviousness-type double patenting over claims 5, 6, 7, 11, 20, 41 and 43 of Copending application No. 10/640,889 and claims 1-25 of Copending application No. 10/666,878. Claims 8 and 16 also stand rejected under non-statutory obviousness-type double patenting over claim 9 of U.S. Pat. No. 6,872,311. Claims 16, 93-97 and 100 have been canceled. Applicant will submit a terminal disclaimer for pending claims 8 and 20 upon indication of allowable subject matter.

35 USC § 103 Rejection

Pending claims 8, 9, 21, 85-89, 101-105 and 108 stand rejected under 35 USC§ 103(a) as being unpatentable over Giglia (US 4,929,502) in view of Arons et al. (US4,217,386) and Sawan et al. (US5,681,468). It is Applicant's understanding that claims 20 and 92 have not been rejected under 35 USC§ 103(a).

Re: Definition of the term "Portion"

As previously discussed, Giglia discloses carbon fibers in a sheet; however, the Examiner recognizes that Giglia does not teach or suggest a microbial interception enhancing agent on selected fibers. The Examiner cites Sawan to overcome this deficiency. Yet, Sawan does not teach a microbiological interception enhancing agent on a portion of selected carbonized fibrillated lyocell fibers, as claimed in claims 8 and 21, nor does it even contemplate or suggest that a microbiological interception enhancing agent can reside on portions of carbonized

fibrillated fibers. The cited Arons patent also does not contemplate or suggest that a microbiological interception enhancing agent can reside on portions of carbonized fibrillated fibers.

In the Advisory Action dated July 11, 2006, the Examiner takes the position that a biological interception agent on a portion of selected carbonized fibrillated fibers is not a patentable limitation. The Examiner states that “a portion can include the whole” such that “such limitations do not further limit the claims.” Applicant disagrees with the Examiner since the Examiner’s interpretation of the definition of the term “portion” is clearly contradictory to the standard definition of such term.

As is supported by several currently available definitions, a portion is part of a whole, and as such, cannot include the whole. Applicant’s position is supported by several electronically available definitions of the terms “portion” and “whole”. In fact, these definitions support that the term “whole” is the antonym of the term “portion”. (E.g., <http://www.answers.com/topic/portion> (a copy of which is attached hereto), portion: a part of a whole (antonyms: all, entirety, whole); See also, Merriam Webster Dictionary, www.m-w.com/dictionary/portion, portion = a part set off or abstracted from a whole; The Free Dictionary, www.thefreedictionary.com/portion, portion = a part of any whole (Antonym – whole)).

In view of the foregoing, applicant continues to submit that the present invention is not obviousness over the cited references of Giglia in view of Arons and Sawan since none of these references, alone or in combination, disclose, contemplate or suggest a microbiological interception enhancing agent residing on a portion of selected carbonized fibrillated fibers as is currently claimed. It is only applicant’s disclosure that teaches a microbiological interception

enhancing agent on a portion of selected carbonized fibrillated fibers, which of course, is improper as a hindsight reconstruction of applicant's invention.

Re: Alleged missing claim limitation

In the above Advisory Action, the Examiner also states that none of the pending claims include the limitation of a "biologically active metal precipitated with a counter ion of a cationic material." Applicant disagrees with this statement and direct the Examiner's attention to currently pending claims 85-89, 101-105 and 108, all of which positively recite this limitation that the Examiner declares is missing from the claims.

In particular, independent claim 85 is directed to a sheet comprising activated, carbonized fibrillated fibers having a microbiological interception enhancing agent on a portion of selected ones of the fibrillated fibers. As recited, the microbiological interception enhancing agent comprises a biologically active metal precipitated with a counter ion of a cationic material that is adsorbed on the portion of the selected ones of the activated, carbonized fibrillated fibers.

Independent claim 101 clarifies that the activated, carbonized fibrillated fibers are activated, carbonized fibrillated lyocell fibers having the microbiological interception enhancing agent of a biologically active metal precipitated with a counter ion of a cationic material on a portion thereof.

Applicant has also amended independent claim 21 to include this limitation, and would be willing to include such limitation in independent claim 8.

Summary

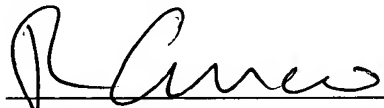
In view of the foregoing, applicant continues to submit that the combination of the cited references does not disclose, contemplate, or suggest a microbiological interception enhancing agent that comprises a biologically active metal precipitated with a counter ion of a cationic

material, whereby the counter ion of the cationic material is adsorbed on the portion of the selected ones of the carbonized fibrillated fibers. Applicant also disagrees with the Examiner regarding the terms "activated," "carbonized," and "fibrillated", and submit that such terms all impart distinct structural characteristics to applicant's resultant claimed sheets since these terms define the resultant product and impart distinctive structural characteristics to the final product, and are neither disclosed nor contemplated by the cited references, either alone or in any proper combination thereof.

It is for these reasons that applicant submits that the Examiner has not established a *prima facie* case of obviousness over the prior art of record.

In the light of the amendments to the claims it is believed that the present RCE application is in condition for allowance which action is respectfully solicited.

Respectfully submitted,

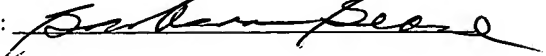


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Name: Barbara Browne Date: October 27, 2006 Signature: 


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portion

Dictionary



por·tion (pôr'shən, pōr'-) 

n.

1. A section or quantity within a larger thing; a part of a whole.
2. A part separated from a whole.
3. A part that is allotted to a person or group, as:
 - a. A helping of food.
 - b. The part of an estate received by an heir.
 - c. A woman's dowry.
4. A person's lot or fate.

tr. v., -tioned, -tion·ing, -tions.

1. To divide into parts or shares for distribution; parcel.
2. To provide with a share, inheritance, or dowry.

[Middle English, from Old French, from Latin *portiō*, *portiōn*-.]


portionable por'tion·a·ble *adj.*

portioner por'tion·er *n.*

portionless por'tion·less *adj.*

▼ *Continued below...*

Thesaurus

 HOUGHTON
MIFFLIN
COMPANY

(out), share. *Slang* divvy. *See* collect/distribute.

▼ *Continued below...*

Antonyms

Answers.com

portion
n

Definition: share, cut, ration
Antonyms: all, entirety, whole

v

Definition: divide into pieces
Antonyms: collect, combine, gather, join

▼ *Continued below...*

WordNet



Note: click on a word meaning below to see its connections and related words.

The *noun* portion has 6 meanings:

Meaning #1: something determined in relation to something that includes it
Synonyms: part, component, part, component

Meaning #2: something less than the whole of a human artifact
Synonym: part

Meaning #3: the result of parcelling out or sharing
Synonyms: parcel, share

Meaning #4: assets belonging to or due to or contributed by an individual person or group
Synonyms: share, part, percentage

Meaning #5: your overall circumstances or condition in life (including everything that happens to you)
Synonyms: fortune, destiny, fate, luck, lot, circumstances

Meaning #6: an individual portion of food or drink
Synonyms: helping, serving

The *verb* portion has one meaning:

Meaning #1: give out
Synonyms: assign, allot